

## Assembly Bill No. 2743

### CHAPTER 378

An act to amend Section 20322 of the Government Code, relating to public employees.

[Approved by Governor August 17, 1996. Filed with  
Secretary of State August 19, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2743, Ackerman. Public Employees' Retirement: membership.

The Public Employees' Retirement Law provides that elective officers may elect membership in the Public Employees' Retirement System under certain conditions.

This bill would provide that elected or appointed officers of contracting agencies in specified positions are excluded from membership.

*The people of the State of California do enact as follows:*

SECTION 1. Section 20322 of the Government Code is amended to read:

20322. (a) An elective officer is excluded from membership in this system unless the officer files with the board an election in writing to become a member. The officer may elect at any time, and has the option of making contributions to this system in the amount that the officer would have contributed had the officer not been excluded, plus an amount equal to the interest, to the date or dates of his or her payment, that would have been credited to those contributions had he or she not been excluded. The contributions and interest shall be paid to this system at times, in amounts, and in a manner, fixed by the board. If the officer affirmatively exercises the option:

(1) He or she shall receive credit for previous state service in the same manner as if he or she had not been excluded, and

(2) His or her rate of contributions shall be based on the nearest age at the time he or she first was excluded.

(b) As used in this part, "elective officer" includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature, and any appointive officer of a city or county occupying a fixed term of office, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors.

(c) Notwithstanding any other provision of subdivision (a) or (b), elected or appointed officers of a county superintendent of schools, school district, or community college district, or of a contracting agency, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those elected or appointed officers who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. This exclusion shall not apply to persons elected to a city council or county board of supervisors.

(d) Any person holding the office of city attorney or the office of assistant city attorney, whether employed, appointed, or elected, is excluded from the definition of “elective officer” as defined in subdivision (b). This subdivision shall apply only to persons first employed, elected, or appointed on or after July 1, 1994, or following any break in state service while serving in the office if the office was held on June 30, 1994.

(e) In accordance with Section 20125 the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an “elective officer” in this system under this section.

(f) Notwithstanding any other provision of law, with respect to elective officers of contracting agencies, payment by a contracting agency of employer contributions and any other amounts for employer paid benefits under this system shall not be construed as receipt of salary or compensation by the elective officer for purposes of any statutory salary or compensation limitation.

